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ALPHIN v. LOWMAN.

Nov. 20, 1913.

[79 S. E. 1029.]

1. Evidence (§ 420*)—Joint Indorsement—Agreement between Indorsers—Statutes.—A showing aliunde that joint payees of a note jointly indorsed it on an agreement of one of them to indemnify the others, in case of default of the maker, is not prevented by the last sentence of Negotiable Instruments Law (Code 1904, § 2841a) § 68, providing: "As respects one another indorsers are liable prima facie in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsees are deemed to indorse jointly and severally."

[Ed. Note.—For other cases, see Evidence, Cent. Dig. §§ 1728, 1795, 1800, 1804, 1815, 1821, 1929-1944; Dec. Dig. § 420.* 10 Va.-W. Va. Enc. Dig. 710; 15 Va.-W. Va. Enc. Dig. 769.]

2. Frauds, Statute of (§ 21*)—Promise to Answer for Debt of Another—Indemnity Agreement between Indorsers.—The agreement of one of several joint accommodation indorsers of a note, whereby he induced the others to join in the indorsement, that he would indemnify the others in case of default of the maker of the note, is not within the statute of frauds (Code 1904, § 2840), as an undertaking to answer for the debt or default of another, but is his original undertaking or promise to answer for his own debt.

[Ed. Note.—For other cases, see Frauds, Statute of, Cent. Dig. § 33; Dec. Dig. § 21.* 6 Va.-W. Va. Enc. Dig. 519; 14 Va.-W. Va. Enc. Dig. 480; 15 Va.-W. Va. Enc. Dig. 429.]

Error to Circuit Court, Bath County.

Action by one Lowman against L. C. Alphin. Judgment for plaintiff. Defendant brings error. Affirmed.

Geo. A. Revercomb, of Covington, and *John W. Stephenson*, of Warm Springs, for plaintiff in error.

John T. Delan and *H. H. Byrd*, of Warm Springs, for defendant in error.

DAVIS v. COLE BROS.

Nov. 20, 1913.

[79 S. E. 1033.]

1. Evidence (§ 187*)—Documents—Best and Secondary Evidence.—Evidence held to show that an instrument offered in evidence was

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.